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## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)


Applicant's or agent's file reference 42390.P11865PCT	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US02/17166	International filing date (day/month/year) 31 May 2002 (31.05.2002)	Priority date (day/month/year) 15 June 2001 (15.06.2001)
International Patent Classification (IPC) or national classification and IPC IPC(7): H04N 7/173 and US Cl.: 725/97		
Applicant INTEL CORPORATION		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 3 sheets, including this cover sheet.
- ☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 0 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of report with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 13 January 2003 (13.01.2003)	Date of completion of this report 23 April 2004 (23.04.2004)
Name and mailing address of the IPEA/US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703)305-3230	Authorized officer  Ngoc K. Vu Telephone No. 703-306-0377

Form PCT/IPEA/409 (cover sheet)(July 1998)

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US02/17166

## I. Basis of the report

## 1. With regard to the elements of the international application:\*

☒ the international application as originally filed.☒ the description:

pages 1-54 as originally filed

pages NONE, filed with the demand

pages NONE, filed with the letter of \_\_\_\_\_

☒ the claims:

pages 55-71 as originally filed

pages NONE, as amended (together with any statement) under Article 19

pages NONE, filed with the demand

pages NONE, filed with the letter of \_\_\_\_\_

☒ the drawings:

pages 1-21 as originally filed

pages NONE, filed with the demand

pages NONE, filed with the letter of \_\_\_\_\_

☐ the sequence listing part of the description:

pages NONE as originally filed

pages NONE, filed with the demand

pages NONE, filed with the letter of \_\_\_\_\_

## 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).☐ the language of publication of the international application (under Rule 48.3(b)).☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

## 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

☐ contained in the international application in printed form.☐ filed together with the international application in computer readable form.☐ furnished subsequently to this Authority in written form.☐ furnished subsequently to this Authority in computer readable form.☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.4. ☐ The amendments have resulted in the cancellation of:☐ the description, pages NONE☐ the claims, Nos. NONE☐ the drawings, sheets/fig NONE5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

**V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. STATEMENT**

Novelty (N)	Claims <u>6-19, 21-23, 29-34, 38-43 and 47-52</u>	YES
	Claims <u>1-5, 20, 24-28, 35-37, 44-46 and 53-56</u>	NO
Inventive Step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-56</u>	NO
Industrial Applicability (IA)	Claims <u>1-56</u>	YES
	Claims <u>NONE</u>	NO

**2. CITATIONS AND EXPLANATIONS**

Claims 1-5, 20, 24-28, 35-37, 44-46 and 53-56 lack novelty under PCT Article 33(2) as being anticipated by Wu (WO 01/15451 A1).

Regarding claims 1-5, 20, 24-28, 35-37, 44-46 and 53-56, Wu discloses a system and method for generating an opportunistic broadcast schedule. The system comprising a processor (102), a communication interface coupled to the processor (126), a storage device coupled to the processor (106). The system is configured to receive request for segments from a user. The requests are ranked based on demand. The ranking allows the limited number of on demand stream to be used in a manner that provides the most popular shows first. The rankings are used to schedule the transmissions of segments over the on demand stream. The scheduling can also take into account the availability of the segment. The schedule generated will account for the time of availability of a segment and ensure that the segment is transmitted rapidly upon its availability if the ranking for the segment is sufficiently high (see page 3, line 20 to page 15, line 19 and figures 2 and 3).

Claims 6-19, 21-23, 29-34, 38-43 and 47-52 lack an inventive step under PCT Article 33(3) as being obvious over Wu in view of Herz et al. (US 6,088,722 A).

Regarding claims 6-19, 21-23, 29-34, 38-43 and 47-52, Wu discloses that each segment requested by the user, a determination is made as to whether the segment is a broadcast segment or an on demand segment. The on demand segments are scheduled on a first-come-first served basis and the computer 122 will return a time and a stream identifier for the segment shortly after the request. Once a user has established his/her profile by identifying desired segments, he/she watches his/her personalized channel at any time (see page 3, line 20 to page 15, line 19 and figures 2 and 3). Wu does not explicitly disclose feedback data comprising relative levels of interest in program content. However, Herz discloses a system and method for scheduling the receipt of desired programs. Feedback paths are provided so that the customer's profiles and the profiles of the programs may be modified to reflect actual usage, and so that the data downloaded to the customer's set top terminal may be minimized (see column 9, line 29 to column 42, line 63). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Wu by including feedback as disclosed by Herz to help the customer receiving video, with minimal effort, the information he/she is most interested in.

Claims 1-56 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.

----- NEW CITATIONS -----

NONE